

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

MARTIN GUTIERREZ,

Plaintiff,

v.

CIV 14-0099 KBM/CG

CORRECTIONAL HEALTHCARE
COMPANIES, INC., JOHN/JANE DOE
MEDICAL STAFF 1-7, WARDEN
RAMON RUSTIN, JOHN/JANE DOE
CORRECTIONAL OFFICERS 1-10,

Defendants.

**ORDER ON OPPOSED MOTION TO CHANGE TRIAL LISTING TO
STATUS CONFERENCE**

THIS MATTER comes before the Court on Plaintiff's Opposed Motion to Change Trial Listing to Status Conference (*Doc. 45*), filed November 21, 2014. Having reviewed the motion, the memoranda and exhibits submitted by the parties, and the relevant authorities, the Court finds that the motion is well-taken and will be granted.

In this motion Plaintiff asks the Court to vacate the Jury Trial presently set for May 11, 2015, and to hold a status conference on that same day to set a new trial date. As grounds, he contends that this is a "highly complex civil rights case" and that adherence to the existing trial date would deprive Plaintiff of necessary discovery. *Doc. 45* at 3. Plaintiff explains that over half of the 180-day discovery period has been consumed with adding additional defendants and waiting for their document production. *Id.* at 4-5. Moreover, he submits that he

advised the Court at the initial scheduling conference that the 180-day discovery period was unrealistically short for this particular case. *Id.* at 4. Plaintiff represents that at a recent status conference, “Magistrate Judge Garza was not opposed to extending the discovery deadline *per se*, but was concerned that any extension would infringe on the May 11, 2015 trial setting.” *Id.* at 3.

In response, Defendant Correctional Healthcare Companies (“CHC”) contends that Plaintiff has had sufficient time to conduct discovery and that vacating the trial date is unwarranted. *Doc. 52* at 2. Additionally, it argues that it will be prejudiced by delaying trial, because of the fading memories of witnesses and additional costs and attorneys’ fees. *Id.*

The Court concludes that Plaintiff’s need for additional time to complete discovery outweighs any prejudice to Defendant CHC, particularly where just over a year has elapsed since the incidents alleged in the Amended Complaint. Therefore, the Court will grant Plaintiff’s motion, vacate the trial, and set a telephonic status conference for Monday, May 11, 2015, at 2:00 p.m., at which time the parties should be prepared to discuss the resetting of the trial date.

IT IS SO ORDERED.


UNITED STATES CHIEF MAGISTRATE JUDGE